

### **REMARKS**

Currently, claims 33 through 50 are pending in the present application. Claims 17 through 28 were previously withdrawn. Claims 1-16 and 29-32 have been cancelled.

Independent claim 33, for example, is directed to a nonwoven composite. The composite includes at least one non-woven material and at least one film layer adhered to the non-woven material. The at least one film layer is prepared from a blended composition that comprises at least one unsaturated block copolymer and a compatibilizer that includes a styrenic block copolymer. The compatibilizer has a melt flow rate of at least about 20 g/10 min.

#### **35 U.S.C. § 112 Rejections**

In the Office Action, claims 1-9, 13-16, and 29-32 were rejected under 35 U.S.C. § 112. Although Applicants disagree with the rejection, such is believed to be moot in light of the present amendments.

#### **35 U.S.C. § 102(b) and § 103(a)**

Claims 1-9, 13-16, and 29-32 were previously rejected under 35 U.S.C. § 102(b) and § 103(a) to Grennes et al. Although Applicants disagree with the rejection, such is believed to be moot in light of the present amendments. By way of example, Grennes et al. does not disclose a composite of a nonwoven and a film as required by independent claim 33.

Additionally, the Office Action cites Grennes et al. as disclosing, for example, blends of SIS and SBS. While Grennes et al. is silent as to certain presently claimed properties such as melt flow rates, the Office Action indicates that the burden is shifted to Applicants where a reference discloses the limitations of a claim except a property or

function. Applicants respectfully submit, however, that the Office Action "must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. . . . The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" See MPEP § 2112.

It is respectfully submitted that the Office Action does not set forth a basis in fact or technical reasoning showing that the high melt flow rates claimed by Applicants are necessarily present in Grennes et al., a reference which does not describe any melt flow rates. Instead, in citing Grennes et al., the Office Action asserts only that viscosity follows molecular weights. However, molecular weights are also not disclosed by Grennes et al. The language cited in the Office Action at Col. 3, lines 9-23, for example, refers only to relative solution viscosities and styrene content by weight. Regardless, Grennes et al. does not disclose a nonwoven composite as presently set forth in the above claims.

Applicants respectfully submit that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Barnhart is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Application No: 10/749,681  
Amendment Dated November 1, 2006  
Reply to Office Action of August 4, 2006

Please charge any additional fees required by this Amendment to Deposit

Account No. 04-1403.

Respectfully requested,

DORITY & MANNING, P.A.



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